IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY THIRD DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 14100 of 2004

Between:

1 Marriboina Venkata Subbaiah S/o. Nadipi Subbanna
R/o. Maduru Village, Chapadu Mandal, Kadapa District.
2 Katam Lakshmidevi, W/o. Veeraswamy,
R/o. Chinnavadaipalle (V) Chapadu (M), Kadapa District.
3 S. Venkata Subbaiah S/o. Usanna
Chinna Varadayapalli Village, Chapadu Mandal,

Kadapa District.
4 Panditi Chinna Ganganna @ Nalgava Ganganna

S/o. Peddanna Chinna Varadayapalli Village,

Chapadu Mandal, Kadapa District.
5 Mandagolola Chinna Munaiah S/o. Muni Subbaiah
Chinna Varadayapalli Village, Chapadu Mandal, Kadapa District.
6 Panditi Narayana S/o. Peddanna
Chinna Varadayapalli Village, Chapadu Mandal, Kadapa District.
7 Panditi Ganganna S/o. Peda Ganganna
8 Marriboina Lakshmamma W/o. Pedda Pullaiah,
Chinna Varadayapalli Village, Chapadu Mandal,

Kadapa District.
9 Ramanaboina Subramanyam W/o. R. Pedda Venkata Subbaiah
Chinna Varadayapalli Village, Chapadu Mandal, Kadapa District.
10 Kullu Sanjeevarayudu @ Sanjanna 48
Chinna Varadayapalli Village, Chapadu Mandal,

Kadapa District.
11 Mandogolla Muni Subbaiah S/o. Pedda Munaiah
Chinna Varadayapalli Village, Chapadu Mandal,

Kadapa District.
12 Naruboina Gurrappa S/o. Obenna

Chinna Varadayapalli Village, Chapadu Mandal, Kadapa District.
13 Marriboina Vasudevudu S/o. Obaiah
Chinna Varadayapalli Village, Chapadu Mandal, Kadapa District.
14 Veeraoina Subbanna S/o. Subbaiah
Chinna Varadayapalli Village, Chapadu Mandal, Kadapa District.
15 Danigela Chinna Veerabhadrudu S/o. Chinna Veeranna
Chinna Varadayapalli Village, Chapadu Mandal, Kadapa District.

16 Uppalaplati Ramachandra Reddy S/o. Venkata Reddy
Chinna Varadayapalli Village, Chapadu Mandal, Kadapa District.
17 Chelluboina Ramakrishna S/o. Chinna Rama Subbanna
Chinna Varadayapalli Village, Chapadu Mandal, Kadapa District.
18 Mandegolla Pedda Munaiah S/o. Tirupelu,
R/o. Maduru Village, Chapadu Mandal, Kadapa District.
19 Sarukolla Usanna @ Subbanna S/o. Tirupelu
Chinna Varadayapalli Village, Chapadu Mandal, Kadapa District.
20 Ramanaboina Surendra S/o. Pedda Venkata Subbaiah
Chinna Varadayapalli Village, Chapadu Mandal, Kadapa District.
21 Katam Subbarayudu S/o. Chowdaiah
Chinna Varadayapalli Village, Chapadu Mandal, Kadapa District.
22 Mandagolla Venkata Subbamma W/o. Muni Subbaiah
Chinna Varadayapalli Village, Chapadu Mandal, Kadapa District.
23 Mandagolla Lakshmamma W/o. Bala Manaiah
Chinna Varadayapalli Village, Chapadu Mandal, Kadapa District.
24 Panditi Nadipi ganganna S/o. Peddanna
Chinna Varadayapalli Village, Chapadu Mandal, Kadapa District.
25 Vazzela Subbanna S/o. Peddanna
Chinna Varadayapalli Village, Chapadu Mandal, Kadapa District.

..... PETITIONERS

AND

1 Sri Narayana Rangaiahagari Choultry

rep. by its Trustee now being rep. by its Manager,
Proddatur, Kadapa District 516360.
2 Sri Narayana Rangaiahgri Choultry

rep. by its Executive Officer
Group I Templates, Proddatur, Kadapa District-516360.
3 The Asst Commissioner, Endowments Department,

Kadapa.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order or direction more particularly one in the nature of writ of mandamus declaring the action of the respondents in issuance of impugned notice dated 15.7.2004 in Form No.1 vide notice No. 75/18/2004 to all the petitioners in respect of

Ac.33-95 Cents covered by Sy. Nos. 113/1, 114, 156/1, 152/2, 166/1, 158, 168 of Maduru Village, Chapaldu Mandal, Kadapa District as illegal, arbitrary and unjust and without jurisdiction and violation of articles 14 21 and 300-A of Constitution of India and consequently set aside the same directing the 3rd respondent authority to dispose off the applications filed by the petitioners of even date 21-7-2004, by considering answering all contentions raised in the applications before them in the interest of justice.

Counsel for the Petitioners: MR. B.VENKAT RAMA RAO

Counsel for the Respondent No.1 & 2: V. Venugopal Rao

Counsel for the Respondent No.3: G.P. FOR ENDOWMENTS

The Court made the following:

ORDER:

The petitioners, who are 25 in number, claim to be the cultivating tenants in respect of Ac.33.95 cents of land covered by Survey Nos.113/1, 114, 156/1, 152/2, 166/1, 158, 168 of Maduru Village, Chapaldu Mandal, Kadapa District, belonging to the first respondent Choultry. All the petitioners are claiming that they are landless poor persons and, therefore, they are entitled to the benefits of Section 82 (2) of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987 (for short 'the Act').

It appears that when the respondents, without following the procedure contemplated under the provisions of the Act and the Rules made thereunder, proposed to hold auction in respect of the lease hold rights of the land in possession of the petitioners, the petitioners filed W.P.No.10051 of 2004. The said writ petition was disposed of by this Court by Order dated 05-07-2004 holding that without recourse to the provisions of law, the respondents are not entitled to evict the petitioners by conducting public auction of the leasehold rights. Accordingly, it was left open to the petitioners to seek appropriate relief for adjudication of their claim before the Appropriate Authority.

In pursuance thereof, the petitioners made their claim petitions before the Assistant Commissioner of Endowments, Kadapa, claiming that they are land less poor persons. Admittedly, the said proceedings are still pending before the Assistant Commissioner of Endowments. While so, the first respondent issued the impugned notices under Rule 5 (1) of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Lease of Agricultural Lands Rules, 2003, (for short 'the Rules') informing the petitioners that by virtue of Section 82 of the Act, the subsisting

lease in respect of the land in their possession stood cancelled with immediate effect and directing them to handover possession of the land in question within 30 days. Aggrieved by the same, this Writ Petition is filed.

Heard the learned counsel for the petitioners and learned Standing Counsel appearing for the respondents 1 and 2.

The learned counsel for the petitioners vehemently contended that since the enquiry before the Assistant Commissioner of Endowments as to the status of the petitioners is still pending, the respondents 1 and 2 are not justified in issuing the notices under Rule 5 (1) of the Rules. The learned counsel for the petitioners further contends that notices in Form No-I under Rule 5 (1) of the Rules can be issued only in respect of the cultivating tenant, who is not a landless poor person and since the petitioners made a claim that they are landless poor persons and the said claim petitions are still pending before the Assistant Commissioner of Endowments, it is not open for the respondents 1 and 2 to issue notices under Rule 5 (1) of the Rules. He contends that on that ground also the impugned notices are liable to be set aside.

The fact that the enquiry is pending before the Assistant Commissioner of Endowments is not disputed in the counter affidavit filed on behalf of the respondents 1 and 2.

Having regard to the facts and circumstances of the case and in the light of the undisputed fact that the enquiry is still pending before the Assistant Commissioner of Endowments, I find force in the contention of the learned counsel for the petitioners that the respondents 1 and 2 ought not to have issued the impugned notices under Rule 5 (1) of the Rules.

Accordingly, the impugned notices are set aside and the Writ Petition is disposed of with a direction to the third respondent-Assistant Commissioner of Endowments, Kadapa, to consider the claim petitions made by the petitioners and pass appropriate orders, in accordance with law, as expeditiously as possible, preferably within a period of six weeks, from the date of receipt of a copy of this Order. Till such orders are passed, the petitioners shall not be dispossessed from the land in question. It is also made clear that if ultimately the 3rd respondent concludes that the petitioners are not landless poor persons, it is open to the respondents 1 and 2 to initiate appropriate proceedings in accordance with law.

The Writ Petition is accordingly disposed of. No costs.

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G. Rohini, J

23rd August, 2004

Note: Issue CC in three days

B/o.

Isn/Bss

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The Manager,

Sri Narayana Rangaiahagari Choultry

Proddatur, Kadapa District 516360.

2 The Executive Officer,

Sri Narayana Rangaiahgri Choultry

Group I Templates, Proddatur, Kadapa District-516360.

3 The Asst Commissioner, Endowments Department,

Kadapa.

4. Two CCs to G.P. for Endowments, High Court Buildings, Hyderabad (OUT).

5. Two CD copies